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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,991	09/15/2000	Jeffrey Scott Kuskin	73139/0269824	3505

4586 7590 12/12/2005

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY, MD 21043

EXAMINER	
COLIN, CARL G	

ART UNIT	PAPER NUMBER
2136	

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/662,991	KUSKIN ET AL.	
	Examiner	Art Unit	
	Carl Colin	2136	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 September 2005* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☒ The proposed drawing correction filed on *30 June 2004* is: a)☒ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Arguments

1. In response to communications filed on 9/30/2005, the following claims 1-18 are presented for examination.

1. Applicant's arguments, pages 10-14, filed on 9/30/2005, with respect to the rejection of claims 1-18 have been fully considered, but they are not persuasive. The declaration filed on 9/30/2005 under 37 CFR 1.131 has been considered, but it is ineffective to overcome the Clarke et al. reference hereafter Clarke for the following reasons. The evidence submitted does not specify whether actual reduction to practice has been established in this country or a NAFTA or WTO member country.

It has also been noted that the declaration has been presented by only one of the many co-inventors of this application.

An affidavit or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection. For example, one of two joint inventors is accepted where it is shown that one of the joint inventors is the sole inventor of the claim or claims under rejection.

**> If a petition under 37 CFR 1.47 was granted or the application was accepted under 37 CFR 1.42 or 1.43, the affidavit or declaration may be signed by the 37 CFR 1.47 applicant or the legal representative, where appropriate.< .

The assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor. Ex parte Foster, 1903 C.D. 213, 105 O.G. 261 (Comm'r Pat. 1903). Affidavits or declarations to overcome a rejection of a claim or claims must be made by the inventor or inventors of the subject matter of the rejected claim(s), a party qualified under 37 CFR 1.42, 1.43, or 1.47, or the assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor(s). Thus, where all of the named inventors of a pending application are not inventors of every claim of the application, any affidavit under 37 CFR 1.131 could be signed by only the inventor(s) of the subject matter of the rejected claims. Further, where it is shown that a joint inventor is deceased, refuses to sign, or is otherwise unavailable, the signatures of the remaining joint inventors are sufficient. However, the affidavit or declaration, even though signed by fewer than all the joint inventors, must show completion of the invention by all of the joint inventors of the subject matter of the claim(s) under rejection. In re Carlson, 79 F.2d 900, 27 USPQ 400 (CCPA 1935). See MPEP § 715.04.

The declaration fails to show that conception and/or reduction to practice was established prior to the date of the Clarke's reference because the affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice "amounts essentially to mere pleading, unsupported by proof or a showing of facts" and, thus, does not satisfy the requirements of 37 CFR 1.131(b). In re Borkowski, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. 505 F.2d at 718-19, 184

USPQ at 33. See also In re Harry, 333 F.2d 920, 142 USPQ 164 (CCPA 1964) (Affidavit "asserts that facts exist but does not tell what they are or when they occurred."). See MPEP § 715.07.

For at least the reasons cited above, Applicant's declaration filed on 9/30/2005 under 37 CFR 1.131 has not overcome the rejection. It remains the Examiner's position that claims 1-18 are still rejected in view of Clarke and Buer.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.1 **Claims 1-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Non-Patent Literature: Clarke, 0. Sandberg, B. Wiley, and T. Hong, "Freenet: A Distributed Anonymous Information Storage and Retrieval System," ICSI Workshop on Design Issues in Anonymity and Unobservability; 21 pages, July 2000, hereafter **Clarke et al** in view of US Patent 6,523,118 to **Buer**.

3.2 **As per claims 1, 3, 7, 9, 13, and 15, Clarke et al** substantially teaches a key-caching system for operation on a packet received from an external source, the packet comprising a header that is not encrypted and a body that is encrypted, the system comprising: a system memory; a networking unit including a system memory including entries for source address and corresponding keys (page 3-4 architecture and page 9, lines 2-5); a controller; a processor; the controller effecting communication and data transfer between the system memory, the networking unit and the processor, wherein the key-caching program comprising code to effect; **Clarke et al** discloses a network system that comprises of servers and routers, sending, and receiving nodes. It is well known that servers and routers contain processors as controllers for effecting communication and data transfer. **Clarke et al** discloses establishing acknowledgment-responsive wireless communication with the external source (see page 11); extracting from the header a source address (page 11, first paragraph); determining whether the source address is included in the cache (page 6, section 3.2); when the source address is included in an entry of the cache, authorizing an acknowledgment signal for the external source, extracting from the entry of the cache a key corresponding to the source address (page 6, section 3.2), and using the key to decrypt the body of the packet (page 10, lines 7-8); **Clarke et al** further discloses if the key is not in the cache look for key in routing table and if key is found, create a new entry in cache that will prepare the cache for a subsequent request for the same key so that data can be decrypted (page 6, section 3.2) that meets the recitation of when the source address is not included in an entry of the cache, determining whether the source address is included in an entry of the system memory; and when the source address is not included in an

entry of the cache and the source address is included in an entry of the system memory, extracting from the entry of the system memory a key corresponding to the source address, and storing the source address and the key as a new entry in the cache to prepare the cache for decrypting a packet subsequently re-sent by the external source. **Clarke et al** discloses using authorization signal so that messages can be restarted and not lost and discloses sending message if successful (page 11-12). In another embodiment, **Clarke et al** discloses if the key is not found send a signal to start a timer while the request is being processed (last paragraph of page 11 through page 12 and page 7) that meets the recitation of wherein when the source address is not included in an entry of the cache, authorizing an acknowledgment signal for anticipatory transmission to the external source of the packet prior to retrieval of the key corresponding to the source address. **Clarke et al** discloses retrieving the key prior to arrival to avoid latency but is silent about decrypting the packet prior to arrival of subsequent packet. **Buer** in an analogous art teaches a secure cache computing system including cache, memory system and a controller system and also discloses to avoid delay when there is a cache miss data can be decrypted in the memory system and sent to cache without halting processor operation. Therefore, it would have been obvious at the time the invention was made to modify the system of **Clarke et al** to allow decryption of the body of the packet to be done in system memory if not in the cache prior to arrival of a subsequent packet. The motivation to do so is given by **Buer** who suggests that the decryption will allow some of the decrypted data to be forwarded and by avoiding delay the remaining portion can be decrypted without halting the processor operation (column 2, lines 44-55).

As per claims 2, 8, and 14, Clarke et al discloses time-out (see page 11) that meets the recitation of dropping the packet of wherein the key-caching program further comprises code to effect: when the source address is not included in an entry of the cache, dropping the packet, which is also known in the art when packet policy rule does not match.

As per claims 4-6, 10-12, and 16-18, the combined references teaches a cache for fast processing that meets the recitation of wherein the cache includes fast memory (see Clarke et al page 6).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4.1 The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Many of the claimed features are disclosed in these patents such as cache memory latency and key retrieval.

US Patents: 5,845,324 White et al. 6,507,908 Caronni ; 5,283,882 Smith et al. 6,771646 Sarkissian et al ; 5,930,472 Smith ; 5,813,031 Chou et al ; 5,701,432 Wong; 5,450,563 Gregor.

US Patent Publication: US 2004/0083286 Holden et al.

4.2 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl Colin whose telephone number is 571-272-3862. The examiner can normally be reached on Monday through Thursday, 8:00-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Carl Colin
Patent Examiner
December 7, 2005

Primary Examiner
AU 2131
12/16/05